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6
7 **IN THE UNITED STATES BANKRUPTCY COURT**
8 **FOR THE DISTRICT OF ARIZONA**

9 In re:) In Proceedings Under Chapter 11
10 BCE WEST, L.P., et al.,)
11 Debtors.) Case Nos. 98-12547 through
98-12570-ECF-CGC
12)
(Jointly Administered)
13)
14 EID: 38-3196719) **MOTION BY HMH RESTAURANTS, INC.**
FOR EXPEDITED HEARING ON MOTION
TO COMPEL IMMEDIATE ASSUMPTION
OR REJECTION OF NON-RESIDENTIAL
REAL PROPERTY SUBLEASE
15)
16) Hearing Date: N/A
Hearing Time: N/A

17 This Motion is filed by HMH RESTAURANTS, INC. ("HMH
18 Restaurants"), a creditor and party in interest in the above-captioned
19 Chapter 11 case of BC GREAT LAKES, LLC ("Debtor"). Pursuant to this
20 Motion, HMH Restaurants requests that the Court set an expedited
21 hearing on the "Motion By HMH Restaurants, Inc. To Compel BC Great
22 Lakes, LLC To Immediately Assume Or Reject Non-Residential Real
23 Property Sublease" (the "Assumption/Rejection Motion"), which was
24 filed contemporaneously with this Motion.

25 In support of this Motion, HMH Restaurants submits as
26 follows:

1 1. HMH Restaurants is the sublandlord of the Debtor under
2 a base lease with a term that expires in April 2009, unless the base
3 lease is terminated earlier in accordance with its terms.

4 2. HMH Restaurants has the right to cut off the term of
5 the base lease five years prior to April 2009, but is required to
6 provide the landlord with written notice of the intent to terminate
7 by no later than July 31, 1999.

8 3. The sublease between HMH Restaurants and the Debtor,
9 however, essentially provides the Debtor with "veto power" on early
10 termination since the sublease requires the Debtor to consent to HMH
11 Restaurants' decision to terminate the base lease. The Debtor refuses
12 to assume or reject the sublease between the parties, and also refuses
13 to consent to HMH Restaurants' early termination of the base lease.

14 4. If the July 31, 1999 deadline passes without any action
15 by the Debtor, then HMH Restaurants arguably is left with not less
16 than an additional five years' worth of liability under the base lease
17 if the Debtor later moves to reject the sublease. These liabilities
18 may exceed hundreds of thousands of dollars.

19 BASED ON THE FOREGOING, HMH Restaurants respectfully
20 requests that the Court enter an Order:

21 A. Setting an expedited hearing on the
22 Assumption/Rejection Motion; and

1 B. Granting such other and further relief as the Court
2 deems just and proper under the circumstances of this case.

3 DATED this 20th day of July, 1999.

4 STREICH LANG
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9 By /s/ Robert J. Miller (#013334)
10 Robert J. Miller

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12 ORIGINAL FILED with the Court
13 and COPIES of the foregoing
14 hand delivered this 20th day
15 of July, 1999, to:

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5 COPIES of the foregoing
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6 July, 1999, to:

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